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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/796,800

03/09/2004

Nobushige Ichikawa

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3160

28289

7590

09/07/2005

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EXAMINER

JOYCE, HAROLD

ART UNIT

PAPER NUMBER

3749

DATE MAILED: 09/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/796,800

Applicant(s)

ICHIKAWA ET AL.

Examiner

Harold Joyce

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 July 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakata et al. in view of Shuttleworth et al. Nakata et al. discloses the claimed invention except for Nakata et al. fails to disclose the positional relationship of the evaporator and heater. Official Notice was taken in the last Office action to the fact that it was probably more than likely that the evaporator of Nakata et al. is arranged rearward of the heater as claimed considering the conventional nature of this arrangement; and if not, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the evaporator of Nakata et al. to be arranged rearward of the heater in order to provide a conventional well known arrangement thereof. Shuttleworth et al. states at column 4, lines 14-30:

Referring now to the drawings it will be seen that a two-piece molded roof is designated generally by the numeral 10. Roof 10 is comprises generally of a lower roof member 12 and an upper roof member 14. ... HVAC cores 26 are preferably comprised of an air conditioning evaporator 26A and a heater core 26B to provide both heating and cooling functions.

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Hence, in support of the stated Official Notice of the last Office action, Shuttleworth et al. teaches the evaporator provided in the ceiling portion and arranged adjacently rearwardly of the heater.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

4. Claims 1-3 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Shuttleworth et al.

Claim Rejections - 35 USC § 103

5. Claims 4-8 and 12-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakata et al. in view of Tauber. Nakata et al. discloses the claimed invention except for rubber plates. Tauber teaches that it is known to provide a damper with a rubber plates as set forth at column 2, lines 47-51. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the damper of Nakata et al. with a rubber plates, as taught by Tauber for its intended purpose.

6. Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakata et al. in view of Tauber as applied to claim 5 above, and further in view of Erickson. Further, Nakata et al. discloses the claimed invention except for a detent mechanism. Erickson teaches that it is well known to provide a damper with detent mechanism as set forth at column 4, lines 40-43. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the damper of Nakata et al. with the levered detent mechanism, as taught by Tauber in order to hold the damper in position.

7. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over either Nakata et al. or Shuttleworth et al. Nakata et al. or Shuttleworth et al. discloses the claimed invention except Nakata et al. or Shuttleworth et al. does not teach an openable window. It is well known that the window of Nakata et al. or Shuttleworth et al. is more likely openable. Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made for the window of Nakata et al. or Shuttleworth et al.

to be openable in view of this well known feature in work vehicle cabin for its obvious purpose.

Claim Rejections - 35 USC § 112

8. Claims 5-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 12, lines 3 and 4, "wherein at least ... conditioning duct" is misdescriptive. In claim 14, lines 3 and 4, "wherein the air ... conditioning duct" is confusing.

Specification

9. The amendment filed July 11, 2005 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: On page 2 and 3, the newly added portions are considered to be directed to new matter. Further, there is no prior disclosure for the "shielding rubber 33C" to be also the "shielding portion"

Applicant is required to cancel the new matter in the reply to this Office Action. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: There is insufficient antecedent basis for this limitation in the claim. Claims 6 and 7 recite the limitation "'a plurality of ... being un-bonded" in the claims. There is insufficient antecedent basis found in the specification for this limitation.

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10. The disclosure is objected to because of the following informalities: On page 16, line 8, "8" inherently should be changed to -- 8A -- and line 17, "8A" inherently should be changed to -- 8B --.

Appropriate correction is required.

Drawings

11. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the limitations of claims 6, 7 and 18 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant

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will be notified and informed of any required corrective action in the next Office action.

The objection to the drawings will not be held in abeyance.

12. The substitute drawing was received on July 11, 2005. This drawing has not been entered because they are directed to new matter. For instance, the previous disclosure was considered to read on the patent to Tauber.

Response to Arguments

13. Applicant's arguments filed July 11, 2005 have been fully considered but they are not persuasive. Contrary to applicant's remarks, Nakata et al. clearly discloses "a pair of air supply opening ... disposed laterally of the heater" (best seen in Figure 3 and 6).

14. Contrary to applicant's remarks, Shuttleworth et al. clearly discloses at column 4, lines 41-51.

15. As to applicant's arguments as they relate to Nakata et al. in view of Tauber, contrary to applicant's remarks the sealing section, as proposed in the above rejection, will inherently deform when the door is opened and shut.

16. In response to applicant's arguments against the references individually, see Nakata et al. and Shuttleworth et al. arguments, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Conclusion

17. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

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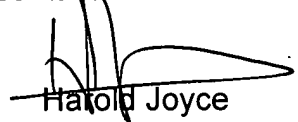
§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Harold Joyce whose telephone number is (571) 272-4876. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ira Lazarus can be reached on (571) 272-4877. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Harold Joyce
Primary Examiner
Art Unit 3749